BOMBAY ACT No. XXXVIII OF 1951.[1]

[THE BOMBAY STATE RESERVE POLICE FORCE ACT, 1951.]

[*23rd October 1951*]

An Act to provide for the constitution and regulation of an armed Reserve Police Force in the State of Bombay.

WHEREAS it is expedient to provide for the constitution and regulation of an armed Reserve Police Force in the State of Bombay; It is hereby enacted as follows:—

Short title, extent, commencement and application.

1. (*1*) This Act may be called the Bombay State Reserve Police Force Act, 1951.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

(*4*) It shall apply to the members of the State Reserve Police Force, wherever they may be.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) 'active duty' means—

(*i*) the duty to investigate offences involving a breach of peace or danger to life or property and to search for and apprehend persons concerned in such offences or who are so desperate and dangerous as to render their being at large hazardous to the community;

(*ii*) the duty to take all adequate measures for the extinguishing of fires or to prevent damage to person or property on the occasion of such occurrences as fires, floods, earthquakes, enemy action or riots and to restore peace and preserve order on such occasions;

(*iii*) such other duty as may be specified to be active duty by the State Government or the Inspector-General in a direction issued under section 10.

(*b*) 'Commandant' and 'Assistant Commandant' mean respectively persons appointed to those offices by the State Government under section 5.

(*c*) 'Commissioner of Police' and 'Deputy Commissioner' mean respectively a Commissioner of Police and a Deputy Commissioner of Police appointed under the Bombay Police Act, 1951. Bom. XXII of 1951.

(*d*) 'Follower' means any person appointed to do the work of a cook, mess servant, washerman, cobbler, barber, tailor, sweeper or an orderly in connection with the State Reserve Police Force;

(*e*) 'members of the subordinate ranks' means members of the State Reserve Police Force below the rank of Adjutant or Battalion Commander;

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1951, Part V, page 320.

(*f*) 'Police Officer' means every police officer as defined by the Police Act, 1861, or the Bombay Police Act, 1951 ; V of 1861. Bom. XXII of 1951.

(*g*) 'Prescribed' means prescribed by rules made under this Act ;

(*h*) 'reserve police officer' means any member of the State Reserve Police Force established under this Act ;

(*i*) 'superior officer' means in relation to any reserve police officer a reserve police officer of a higher rank than, or of a higher grade in the same class as, or of the same rank as but senior to, himself.

(*j*) the words and expressions used herein and which are defined in the Indian Penal Code, the Code of Criminal Procedure, 1898, and the Bombay Police Act, 1951, and not hereinbefore defined, shall have the meanings respectively assigned to them in those enactments. XLV of 1860. V of 1898. Bom. XXII of 1951.

Constitution of the State Reserve Police Force.

3. (*1*) In addition to the Police Force constituted under the Bombay Police Act, 1951, the State Government may establish and maintain an armed reserve police force known as the State Reserve Police Force ; Bom. XXII of 1951.

(*2*) The State Reserve Police Force shall be established and maintained in such manner as may be prescribed.

(*3*) Subject to the provisions of this Act, the pay, pension and other conditions of service of members of the State Reserve Police Force shall be such as may be determined by the State Government :

Provided that nothing in this section shall apply to the pay, pension and other conditions of service of the members of the Indian Police or the Indian Police Service who may be transferred to the State Reserve Police Force.

(*4*) The State Government or any officer empowered by it in this behalf may,—

(*a*) divide the State Reserve Police Force in groups ;

(*b*) sub-divide each group into battalions, and each battalion into companies, and each company into platoons ;

(*c*) post any group, battalion, company or platoon at such places as the State Government or the officer empowered by it in this behalf may deem fit.

Superintendence, control, and administration of Force.

4. The superintendence of and control over the State Reserve Police Force shall vest in the State Government ; and the State Reserve Police Force shall be administered by the State Government in accordance with the provisions of this Act and of any rules made thereunder, through such officers as the State Government may from time to time appoint in this behalf.

Appointment of Commandant and Assistant Commandants.

5. (*1*) The State Government may appoint for each group a Commandant who shall be a person eligible to hold the post of a District Superintendent and an Assistant Commandant who shall be a person eligible to hold the post of an Assistant or a Deputy Superintendent.

(*2*) Notwithstanding anything contained in sub-section (*1*), the State Government may appoint such Military Officer as it deems fit to be a Commandant or Assistant Commandant.

(*3*) The Commandant, the Assistant Commandant and every other officer so appointed shall have and may exercise such powers and authority as may be provided by or under this Act.

Enrolment.

6. (*1*) Before any person appointed to be a reserve police officer joins his appointment, a declaration in the form in Schedule A shall be read out and, if he so desires, explained to him in the presence of a Commandant or an Assistant Commandant or a police officer not lower in rank than a District Superintendent or a Deputy Commissioner and shall be signed by him in token of his having undertaken to abide by the conditions prescribed therein. The declaration shall then be attested by such Commandant, Assistant Commandant or Police Officer, as the case may be.

(*2*) No reserve police officer shall resign his appointment except in accordance with the terms of the declaration signed by him under sub-section (*1*).

(*3*) If any reserve police officer resigns in contravention of this section, he shall be liable, without prejudice to any other penalty imposed by this Act or any other law for the time being in force, on the order of the Commandant, to forfeit all arrears of pay then due to him.

Transfer.

Bom. XXII of 1951.

7. (*1*) Notwithstanding anything contained in this Act or the Bombay Police Act, 1951, it shall be competent to the State Government to transfer members of the armed section of the Police Force appointed under the Bombay Police Act, 1951, to the State Reserve Police Force established under this Act and *vice versa* :

Bom. XXII of 1951.

Provided that the State Government may delegate its power under sub-section (*1*) in so far as it relates to the transfer of members of the subordinate ranks of the respective Police Force to the Inspector-General.

Bom. XXII of 1951.

(*2*) On the transfer of a member of the Police Force appointed under the Bombay Police Act, 1951, to the State Reserve Police Force established under this Act or *vice versa*, he shall be deemed to be a member of the Police Force to which he is transferred and in the performance of his functions, he shall, subject to such orders as the State Government may make, be deemed to be vested with the powers and privileges, and be subject to the liabilities, of a member of such grade in the Police Force to which he has been transferred as may be specified in the orders.

Certificate of appointment to certain reserve police officers, when it is to be returned back.

8. (*1*) An Adjutant, a Battalion Commander or Company Commander shall, on appointment, receive from the Inspector-General of Police a certificate of appointment containing particulars of his name, age, religion and his previous service, if any.

(*2*) Every reserve police officer below the rank of a Company Commander shall on appointment receive a certificate in the form of Schedule B, which shall be issued under the seal of the Commandant.

(*3*) Every person who for any reason ceases to be a reserve police officer shall forthwith deliver up to an officer empowered by the Commandant to receive the same, his certificate of appointment and the arms, accoutrements, clothing and other necessaries which have been furnished to him for the execution of his office.

General powers of Commandant.

9. The Commandant shall, subject to the orders of the Inspector-General of Police, direct and regulate all matters of arms, drill, exercise, mutual relations, distribution of duties, and all the matters of executive detail in the fulfilment of their duties by the members of the group in his charge.

General duties of members of State Reserve Police Force.

10. (*1*) Every reserve police officer shall for the purpose of this Act be deemed to be always on duty in the State of Bombay, and any reserve police officer and any member or body of reserve police officers may, if the State Government or the Inspector-General of Police so directs, be employed on active duty for so long as and wherever the services of the same may be required.

(*2*) Every direction issued under sub-section (*1*) shall specify that the duty on which any reserve police officer or any member or body of such officers is directed to be employed shall be deemed as active duty for the purposes of this Act.

Explanation.—The direction of the State Government or of the Inspector-General of Police whether a reserve police officer is required or is on active duty shall be final.

(*3*) A reserve police officer employed on active duty under sub-section (*1*), or when a number or body of reserve police officers are so employed, the officer in charge of such number or body, shall be responsible for the efficient performance of that duty and all police officers who but for the employment of one or more reserve police officers or body of reserve police officers would be responsible for the performance of that duty will to the best of their ability assist and co-operate with the said reserve police officer or officers in charge of a number or body of reserve police officers.

Reserve police officer to be deemed to be in charge of police station.

11. (*1*) When employed on active duty at any place under sub-section (*1*) of section 10, the senior reserve police officer of highest rank not being lower than that of a Naik present shall be deemed to be an officer in charge of a Police Station for the purposes of Chapter IX of the Code of Criminal Procedure, 1898. V of 1898.

Circumstances under which reserve police officer entitled to use force.

(*2*) Notwithstanding anything contained in sections 100 and 103 of the Indian Penal Code, a reserve police officer employed as aforesaid may, when there is reasonable apprehension of assault on himself or any reserve police officer or of damage or harm to any property or person which or whom it is his duty to protect, use such force to the wrong doer or assailant as may be reasonably necessary even though the use of such force may involve risk of death of the wrong doer or the assailant or any other person assisting such wrong doer or assailant. XLV of 1860.

Offence in respect of resignation contrary to provisions.

12. If any reserve police officer resigns his appointment in contravention of section 6 he shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Offence in respect of refusal to deliver certificate of appointment, etc.

13. Any reserve police officer who wilfully neglects or refuses to deliver up his certificate of appointment or any other article in accordance with sub-section (*3*) of section 8 shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

More heinous offences.

14. Every reserve police officer who,—

(*a*) begins, excites, causes or conspires to cause or joins in any mutiny, or being present at any mutiny, does not use his utmost endeavours to suppress it by force of arms, if necessary, or knowing, or having reason to believe in, the existence of

any mutiny, or of any intention or conspiracy to mutiny or of any conspiracy against the State, does not, without delay, give information thereof to his superior officer present at or near the place ; or

(*b*) uses, or attempts to use criminal force to, or commits an assault on his superior officer, knowing or having reason to believe him to be such, whether on or off duty ; or

(*c*) shamefully abandons or delivers up any post, guard, building, fortification, or property which is committed to his charge, or which it is his duty to defend ; or

(*d*) in the presence of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition or intentionally uses words or any other means to induce any reserve police officer or any police officer to abstain from acting against any such person in arms, or to discourage such officer from acting against any such person in arms or who is otherwise guilty of cowardice or misbehaviour in the presence of any such person in arms ; or

(*e*) directly or indirectly holds correspondence with, or communicates intelligence to, or assists, or relieves, any person in arms against the State, or any person conspiring against Government or public security or any person to be arrested, or omits to discover immediately to his superior officer present, any such correspondence or communications coming to his knowledge ; or

(*f*) directly or indirectly sells, gives away, or otherwise disposes, or agrees to, or assists in, the sale, gift or disposal of any arms, ammunition or equipment to any such person as aforesaid, or knowingly harbours or protects any such person ; or

(*g*) while on active duty,—

(*i*) disobeys the lawful command of his superior officer ; or

(*ii*) deserts his force or his post ; or

(*iii*) being a sentry, or otherwise detailed to remain alert, sleeps at his post or quits it without being regularly relieved or without leave ; or

(*iv*) without authority, leaves his Commanding Officer for any purpose whatsoever ; or

(*v*) uses criminal force to, or commits an assault on, any person whom he has not any reason to believe to be in arms against the State and against whom it is his duty to act, or without authority breaks into any house or other place for plunder or any illegal purpose, or wilfully and unnecessarily plunders, destroys or damages any property of any kind ; or

(*vi*) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters,

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to fourteen years and shall also be liable to fine.

Explanation.—A reserve police officer shall be deemed to desert the force if he leaves his place of duty or posting without the permission of his superior officer and he shall be deemed to desert his post if he leaves any sentry, beat, point, building, vehicle, or other place at which or in which he is specifically ordered by his superior officer to perform the duty assigned to him.

Less heinous offences.

15. Every reserve police officer, who—

(*a*) assaults or uses or attempts to use criminal force to any sentry ; or

(*b*) being in command of a guard, picquet or patrol, refuses to receive any prisoner or person lawfully made over to his charge, or whether in such command or not, releases any prisoner or person without proper authority or negligently suffers any prisoner or person to escape ; or

(*c*) being in command of a guard, picquet or patrol, permits any person belonging to such guard, picquet or patrol to engage himself in gambling or other behaviour prejudicial to good order and discipline ; or

(*d*) being under arrest or in confinement, leaves his arrest or confinement, before he is set at liberty by lawful authority ; or

(*e*) is grossly insubordinate to his superior officer in the execution of his office; or

(*f*) refuses to superintend or assist in the making or carrying out of any construction of any description ordered to be made either in quarters or in the field ; or

(*g*) assaults or otherwise ill-uses any reserve police officer with reference to whom he is a superior officer ; or

(*h*) designedly or through neglect damages or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition, accoutrements or other necessaries furnished to him for the execution of his office or any such articles entrusted to him or to any other person ; or

(*i*) malingers, feigns or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity ; or

(*j*) with intent to render himself or any other person unfit for duty, voluntarily causes hurt to himself or any other person ; or

(*k*) commits extortion or without lawful authority extorts from any person carriage, porterage or provisions ; or

(*l*) wilfully or negligently ill-treats, injures or causes the death of any animal or damages, loses or makes away with any animal or vehicle used in the public service ;

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Reserve police officer in command to give information of commission of offence under Act by reserve p lice officer under his charge.

16. A reserve police officer who, being in command of any guard, picquet, party, patrol or detachment and knowing of the commission or of a design to commit any offence punishable under section 14 or 15 of this Act, by or on the part of any reserve police officer under his command, intentionally omits or without reasonable excuse, the burden of proving which shall lie on him, fails to give information of such commission or design to his superior officer shall, on conviction, be punished with rigorous imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Place of imprisonment and liability to dismissal on imprisonment.

17. (*1*) Every person sentenced under this Act to imprisonment may be dismissed from the State Reserve Police Force, and his pay, allowance and any other moneys due to him, as well as any medals and decorations received by him shall further be liable to forfeiture.

(*2*) Every such person shall, if he is so dismissed, be imprisoned in the prescribed prison, but if he is not also dismissed from the State Reserve Police Force, he may, if the Court so directs, be confined in the quarter-guard or such other place as the Court may consider suitable.

Minor punishments.

18. (*1*) A Commandant, or subject to the control of the Commandant, an Assistant Commandant, or subject to the same control, an officer not below the rank of Jamadar in independent command of a detachment or an outpost or in temporary command of a Group Headquarters during the absence of the Commandant or Assistant Commandant may award to any reserve police officer not higher in rank than a Battalion Havildar Major or to any follower subject to his authority, any of the following punishments for the commission of any offence against discipline which is not otherwise provided for in this Act, or which, in the opinion of the Commandant, Assistant Commandant or Officer, as the case may be, is not of sufficiently serious nature to call for prosecution before a criminal court, that is to say—

(*a*) punishment drill, extra guard, fatigue or any other duty for a term which may extend, when the order is passed by the Commandant, to fourteen days, and, when the order is passed by any other officer, to seven days;

(*b*) forfeiture of pay and allowances or such proportion of pay and allowances as he considers necessary for a period which may extend, when the order is passed by the Commandant, to one month and, when the order is passed by any other officer, to ten days;

(*c*) fine to an amount not exceeding one month's pay:

Provided that—

(i) no power under this sub-section shall be exercised by a Commandant or Assistant Commandant or other officer not below the rank of Jamadar unless the person to be awarded any of these punishments is under the command of such officer at the time when the breach of discipline or misconduct occurred and also when the power is exercised; and

(ii) when more than one officer are competent under proviso (i) to exercise the power, the most senior of such officers shall exercise the power.

(*2*) Any of the punishments specified in sub-section (*1*) may be awarded separately or with any one or more of the others:

Provided that fine shall not be awarded in combination with forfeiture of pay or allowances.

(*3*) No appeal shall lie from any order of punishment passed under this section except from an order of punishment of fine as provided in sub-section (*4*).

(*4*) An appeal against any order awarding punishment of fine shall lie to the State Government or to such officer as the State Government may by general or special order specify in this behalf.

(*5*) When a Commandant or an Assistant Commandant or other officer passes an order under sub-section (*1*), he shall enter in a book to be kept for the purpose a brief description of the default, together with the names of witnesses, explanation of the defaulter and the order of punishment and shall sign and date each such order.

Every reserve police officer to be police officer as defined in Bom. XXII of 1951.

19. Except as specifically provided in the foregoing sections of this Act, every reserve police officer shall for all purposes be deemed to be a police officer as defined in the Bombay Police Act, 1951, and the provisions of that Act shall, except in so far as they are inconsistent with the provisions of this Act, apply to every such reserve police officer. Bom. XXII of 1951.

Protection for acts of members of Force.

20. (*1*) In any suit or proceeding against any member of the State Police Reserve Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(*2*) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved, the member of the said Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding, whether civil or criminal, which may lawfully be brought against any member of the State Police Reserve Force for anything done or intended to be done under the powers conferred by, or in pursuance of, any provision of this Act, or the Rules thereunder, shall be commenced within six months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding :

Provided that such proceedings may, with the sanction of the State Government, be commenced at any time after the act complained of was committed.

Power to make rules.

21. (*1*) The State Government may make rules not inconsistent with this Act for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely :—

(*a*) regulating the number, classes and grades of the State Reserve Police Force ;

(*b*) administration of the State Reserve Police Force ;

(*c*) recruitment, organization, classification and discipline of the members of the subordinate ranks ;

(*d*) inspection of the Force ;

(*e*) description and quantity of arms, accoutrements, clothing and other necessaries to be furnished to the members of the Force.

SCHEDULE A.

(*See* section 6.)

Form of declaration to be signed before joining appointment in the State Reserve Police Force.

I, (Name in full) .....

.....

(designation in the case of a member of a Police force/address in the case of a direct recruit).....

declare that—

(1) I am willing to serve, wherever posted, in the State Reserve Police Force,

(2) I shall not be entitled to resign my appointment in the State Reserve Police Force or to apply for a transfer to any other Police Force until I have completed the prescribed period of service in the State Reserve Police Force, and

(3) I shall not be entitled to resign my appointment or to apply for the transfer in the manner specified in (2) above even after the completion of the prescribed period of service, if on the relevant date I am on active duty or if my resignation or transfer as the case may be would cause the vacancies in my Group to exceed such percentage of the sanctioned strength of the Group as may for the time being have been prescribed by the State Government.

Signature in token of the above declaration having been read out and explained to the declarant and of his having understood and accepted it. .....

.....

Date .....

Place .....

Signed in my presence after I had satisfied myself that (Name in full).....

.....

(designation in the case of a member of a Police force/full address in the case of a direct recruit).....

.....

has understood and accepted the declaration and signed it in my presence.

Signature .....

Designation of the Officer before whom the declaration is signed. — Commandant or Assistant Commandant or Police Officer.

Date .....

Place .....

SCHEDULE B.

(*See* section 8.)

Form of Certificate for a State Reserve Police Officer below the rank of a Company Commander.

Seal of the Commandant.

A. B. has been appointed to the State Reserve Police Force in the State of Bombay and is vested with the powers, functions and privileges of a Reserve Police Officer under the Bombay State Reserve Police Force Act, 1951 (Bom. of 1951).

(Signature) .....

Commandant,
State Reserve Police Force,
Group.....

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